REMARKS

Reconsideration of the present application is requested.

I. Disposition Of The Claims

Claims 1-2 and 4-32 are pending. Claims 2, 5-10, 21-23, 25-26, and 28-30 are withdrawn from consideration as drawn to non-elected invention.

Claims 1, 4, 11, 13, 16, and 17 are amended as shown. Support for the amendment to claim 1 is in claim 3 with respect to the metal-containing precursor. As to the other limitations, the amendment to claim 1 is supported for obvious reasons. Claim 4 is amended as suggested by the Examiner. Office action p. 5, citing specification p. 21, 1 and 3. Claim 11 is amended to remove the term "step of" to clarify the language. Claim 13 is also amended to remove "step of" to clarify the language and to the change the word "means" as shown so as not to confuse the claim with a means plus function claim. Claims 15-16 is also amended similarly. Claim 17 is amended to remove the term "means" so as not to confuse the claim with the means plus function claim.

Claim 31 is supported by claim 3 as filed. Claim 32 is supported by claim 1 as-filed. No new matter has been added.

II. Election/Restriction Requirements

The elections are affirmed. The Examiner asked to hold the traversal of the restriction requirement and election of species requirement in abeyance until a later point in the prosecution.

III. Interview Summary

Further to the Examiner interview of March 6, 2007, the substance of the interview can be gleaned from these remarks.

IV. Claim Objections

Claim 4 was objected to because it contained inadvertently typographical error. Office action, para. 2. The present version of the claims corrects this error. The Examiner is thanked for making this suggestion. The rejection should be withdrawn.

V. Claim Rejection Under 35 U.S.C. § 112, Para. 1, Enablement

Claims 1, 3-4, 6, 11-20, 24, and 27 are rejected for lacking and enabling written description. Office action, para. 4. Examiner states that the present specification enables using a temperature in a range of 1500-4000°C. Office action, para. 4. The present version of the claims adopts the enabled temperature range. Thus, the rejection should be withdrawn.

VI. Rejection Under 35 U.S.C. § 112, Para. 2.

Claims 1, 3-4, 6, 11-20, 24, and 27 are rejected as indefinite. Office action, para. 6. The Examiner thank for making a very through suggestions on claim amendment to obviate this rejection. These suggestions were adopted in substantial part, but the Examiner should note that (1) the term "vaporized" was added to replace "reacted" as shown; (2) the term "to create a vapor" has been removed; and (3) the harvesting is now in separate claim 32. Thus, the rejection should be withdrawn.

Claim 4 was rejected and Examiner proposed an amendment which the present the versions of the claims adopts. Office action, para. 6, p. 4. The present rejection should be withdrawn.

VII. Double Patenting Rejections.

There are six rejections, each of which will be discussed under separate header.

A. ***Application No. 11/113,320***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1, 3-5, and 7 of the '320 application. The present terminal disclaimer filed with this response should avoid this issue. Thus, the rejection should be withdrawn.

B. ***Application No. 11/491,484***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-9, 16-24, and 31-32 of the co-pending '484 application. Office action, para. 9. The '484 application is abandoned. Thus, the rejection should be withdrawn.

C. ***Application No. 10/292,263***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-4, 7, and 12-14 of the '263 application. The present terminal disclaimer avoids this issue. Thus, the rejection should be withdrawn.

D. ***Application No. 10/614,845***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-9, 16-24, 31-43, 45, 46, and 50-58 of the '845 application. The present terminal disclaimer avoids this issue. Thus, the rejection should be withdrawn.

E. ***Application No. 10/315,271***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-4, 7, 11-15, 19, 22, 24-26, and 29 of co-pending '271 application. The present terminal disclaimer avoids this issue. Thus, the rejection should be withdrawn.

F. ***Application No. 10/315,272***

Claims 1, 3-4, 6, 11-15, 17-19, and 24 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-5, 11, 13, 16-17, 21-23, and 27 of co-pending '272 application. Office action, para. 13. The present terminal disclaimer avoids this issue. Thus, the rejection should be withdrawn.

VIII. ***Rejections Under 35 U.S.C. §§ 102-03***

Claims 1, 3-4, 6, 11-15, 17-20, and 24 are rejected under § 102(b) as anticipated by or, in the alternative, under § 103(a) as obvious over Bickmore (U.S. Patent No. 5,984,997, issued 11-16-1999 from application 09/046,465, filed 03-23-1998). Office action, para. 16. According to the rejection, "it is the Examiner's position that temperatures in excess of 600°C include claim temperatures of "greater than 3000°C since Bickmore et al. do not limit combustion temperatures. Office action, p. 9. (emphasis removed). It is respectively submitted that this type of rejection belongs under the header of obviousness not anticipation.

Indeed, there is a vast difference between temperatures of 600°C and 1500°C and anticipation requires a description, not an extrapolation.

Regarding obviousness, the Bickmore reference is not a § 102(b) reference. The present application incorporates the '997 patent by reference at paragraph 5. Similarly, parent application no. 10/004,387 filed 12-04-2001, now Patent no. 6,652,967 incorporates the '997 patent by reference at paragraph 5 of 2003-0102099 A1. The parent application no. 09/790,036 filed 02-20-2001, now Patent no. 6,933,331 incorporates the '997 patent at page 5, line 23 of the as-filed specification, and its parent application no. 09/083,893 filed 05-22-1998 now Patent no. 6,228,904, incorporates the '997 patent at column 4, line 7 of the '904 patent. As such, the disclosure is continuously disclosed back until the 05-22-1998, the filing date of the '893 application.

Bickmore was not applied as an anticipating reference. As such, the '997 patent is, if anything, prior invention (§§ 102(a), 102(e), 102(f)) and disqualified under 103(c), because the inventions were commonly owned at the time the applications were filed. (Nanomaterials Research Corporation changed its name to Nanomaterials Research, LLC in March-April 2001. About this time, Nanomaterials Research, LLC assigned assets to Nanoenergy Corporation, which eventually changed its name to Nanoproducts Corporation.)

As such, § 103(c) makes the Bickmore reference not prior art as to the present invention. Thus, this rejection should be withdrawn.

A. ***Konig (U.S. Patent No. 5,356,120) in view of Holzl (U.S. Patent No. 3,565,676)***

Claims 1, 3-4, 6, 11-15, 17-20, and 24 are rejected under § 103(a) as being obvious over Konig in view of Holzl. Office action, para. 17. The Examiner is thanked for highlighting the terms metal halides, metal alcoholates, and metal azides which may be in solid or liquid state. Office action, p. 9. The present version of the claims relates this issue. Thus, the rejection should be withdrawn.

B. ***Bickmore in view of Umeya (U.S. Patent No. 5,489,449)***

Claims 16 and 27 are rejected as obvious over Bickmore in view of Umeya. Office action, para. 18. The teachings of Umeya have not been applied to remedy the deficiencies of Bickmore. Thus, the present rejection should be withdrawn.

C. ***Konig in view of Holzl further in view of Umeya***

Claims 16 and 27 are rejected as obvious as being unpatentable over Konig in view of Holzl further in view of Umeya. The teachings of Umeya have not been applied to remedy the deficiencies of Konig in view of Holzl. Thus, the present rejection should be withdrawn.

Conclusion

The present application is believed in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

PATENT
Attorney Docket No. 037768-0173
Application No. 10/698,564

Respectfully submitted.

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